

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 353 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHERUBHAI U.CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioner

MR SR DIVETIA for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/08/97

C.A.V. JUDGEMENT

Heard the learned counsel for the parties.

2. Here is yet another case where since 1975 the petitioner is in the employment of the respondent on the basis of 29 days appointment. So, the petitioner is continuing for all these years on the basis of his appointment for 29 days after a break of two or three days.

3. This petition has been filed by the petitioner before this Court and prayer has been made for giving direction to the respondents not to give any break in his service and to grant all the permanent benefits from the date of his initial appointment.

4. This Court has granted the interim relief in favour of the petitioner in terms of Para-8(d). Para No.8(d) reads as under:

(d) Pending admission and final disposal of this petition, Your Lordships be pleased to restrain the respondents, their agents and servants from terminating, discharging, or otherwise discontinuing the services of the petitioners, and restrain them, from giving artificial intermittent break on every 30th day of the month.

So, the petitioner is continuing in service for all these years. After this interim relief from this court, now the petitioner's services are continued without any break.

5. Reply to the special civil application has not been filed by the respondents, and as such, the averments made therein stand uncontroverted.

6. Taking into consideration the totality of the facts of this case, the special civil application is disposed of with the direction to the respondents that the post on which the petitioner is working should be immediately filled up in accordance with the rules and the petitioner shall be given an opportunity to compete in the selection. The petitioner is in service for more than 22 years, and as such, due weightage should be given to this fact while considering his case for appointment through selection. This exercise has to be undertaken by the respondents within a period of six months from the date of receipt of certified copy of this order. Till then the petitioner shall be continued in service. The Special Civil Application and Rule stand disposed of in the aforesaid terms with no order as to costs.
